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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,319	02/12/2002	Armando M. Diaz	14-120-1	6422
24131	7590	12/01/2005	EXAMINER	
LERNER AND GREENBERG, PA			GRIER, LAURA A	
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			2644	
DATE MAILED: 12/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/074,319	DIAZ ET AL.	
	Examiner	Art Unit	
	Laura A. Grier	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 August 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 14 is/are allowed.

6) Claim(s) 1-8 and 12 is/are rejected.

7) Claim(s) 9-11, and 13 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Groeger in view of Sass and further in view of In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Regarding **claim 1 and 8**, Groeger et al. (herein, Groeger) discloses a radio receiver including a recording unit for audio data (figure 2). Groeger's disclosure comprises a recording unit (6) comprising digital memories (14/12) for storing audio data, wherein the data in the memories can be played back via speakers, which reads on programming a storage and playback circuit with a message or message particulars (col. 1, lines 39-43, col. 2, lines 21-25, 36-43 and 49-58); further the digital memory 12 is associated with a controller which reads on a micro controller (col. 2, line 24), and with the recording unit (6) coupled with the radio (2) - figure (2), reads on the circuitry comprising a micro controller and an audio integrated circuit; the recording unit (6) is connected to between a demodulator (22) and an amplifier (10) - (figure 2, col. 3, lines 1-10), which reads on connecting the storage and playback circuit a demodulator and an amplifier of a radio, and indicates the demodulating inputting a signal to the

recording unit and playback unit of the radio, reads on inputting a signal from the demodulator to the audio integrated circuit. Even though, Groeger discloses via the connection of the memory, the demodulator and the amplifier enabling playback of a prerecorded message instead of the incoming signal (col. 3, lines 1-10), Groeger fails to disclose automatically initiating periodic replacement of the received radio signal with the message.

Regarding automatically initiating periodic replacement of the received radio signal with the message, in a similar field of endeavor, Sass discloses an apparatus for distributing and playing audio information. Sass's disclosure includes enabling a receiver to manipulate, process and/or play particular commercial as desired, wherein the commercials may be stored and played back at an appropriate time (col. 8, lines 6-46, and col. 11, lines 6-56), which indicates initiating a periodic replacement of the received radio signals with prerecorded message.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger by implementing initiating a periodic replacement of the received radio signals with prerecorded message for the purpose of customizing a radio broadcast.

However, Groeger and Sass fails to disclose the periodic replacement as being automatic. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger and Sass by enabling an automatic process of the periodic replacement of the received radio signal with prerecorded messages for the purpose of lessening manually user manipulations by a user, and furthermore, it is held that providing automatic means to replace a manual activity or process which provides the same results is a routine practice to one of ordinary skill in the art. *In re Venner*.

3. **Claims 3-6, and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Groeger and Sass in view of Thompson, and further in view of *In re Venner*.

Regarding **claim 3 and 12**, Groeger discloses a radio receiver including a recording unit for audio data (figure 2). Groeger's disclosure comprises a recording unit (6) comprising digital memories (14/12) for storing audio data, wherein the data in the memories can be played back via speakers, wherein the recording unit is connected to between a demodulator (22) and an amplifier (10) – (col. 2, lines 21-25, 36-43, col. 3, lines 1-10), which reads on apparatus connected to a radio comprising a storage and playback connected between a demodulator and an amplifier. Even though, Groeger discloses via the connection of the memory, the demodulator and the amplifier enabling playback of a prerecorded message instead of the incoming signal (col. 3, lines 1-10), Groeger fails to disclose automatically initiating periodic replacement of the received radio signal with the message.

Regarding automatically initiating periodic replacement of the received radio signal with the message, in a similar field of endeavor, Sass discloses an apparatus for distributing and playing audio information. Sass's disclosure includes enabling a receiver to manipulate, process and/or play particular commercial as desired, wherein the commercials may be stored and played back at an appropriate time (col. 8, lines 6-46, and col. 11, lines 6-56), which indicates initiating a periodic replacement of the received radio signals with prerecorded message.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger by implement initiating a periodic replacement of the received radio signals with prerecorded message for the purpose of customizing a radio broadcast.

Further, Groeger and Sass fails to specifically disclose a timer. In a similar field of endeavor, Thompson, III (herein, Thompson) disclose an electronic vehicular audio playback system. Thompson's disclosure comprises a timing means such as a trigger for enabling playback of a stored message for a specific period of time (col. 3, lines 15-16, 23-30 and col. 4, lines 45-54), which reads on a timer.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger and Sass by implement a timing means for the purpose of providing sequential or periodic playback of prerecorded messages as taught by Thompson.

However, Groeger and Sass fails to disclose the periodic replacement as being automatic. It would have obvious to one of the ordinary skill in the at the time the invention was made to modify the invention of Groeger and Sass by enabling an automatic process of the periodic replacement of the received radio signal with prerecorded messages for the purpose of lessening manually user manipulations by a user, and furthermore, it is held that providing automatic means to replace a manual activity or process which provides the same results is a routine practice to one of ordinary skill in the art. *In re Venner*.

Regarding **claim 4**, Groeger, Sass and Thompson (herein, Groeger combination) disclose everything claimed as applied above (see claim 3). Groeger combination (Groeger) further discloses digital memory 12 is associated with a controller which constitutes as a micro controller, which reads the storage and playback circuit comprising a micro controller (col. 2, lines 21-25).

Regarding **claim 5**, Groeger combination discloses everything claimed as applied above (see claim 4). Groeger combination (Groeger) further discloses with the recording unit (6) coupled with the radio (2) - figure (2), reads on the circuitry comprising an audio integrated circuit.

Regarding **claim 6**, Groeger combination discloses everything claimed as applied above (see claim 5). Groeger combination (Groeger) disclose a decoder which inherently constitutes a RDS separator as evidence by the fact that of the presence of RDS and the fact particular data may be displayed by a display of the radio device which typical RDS information, and the demodulated signal is monitored in the decoder for the occurrence of identifiers of the message data which is stored for later retrieval (col. 2, lines 49-58, col. 3, lines 1-10), wherein the decoder is coupled to the digital memory 12 which has an associated controller which reads on a micro-controller coupled thereto, and the controller is connected to the recording unit of the radio device reads on the micro-controller being connected to the said audio integrated circuit.

4. **Claims 2 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Groeger in view of Noda, U. S. Patent No. 5867776.

Regarding **claim 2**, Groeger and Sass disclose everything claimed as applied above (see claim 1). Groeger and Sass's (Groegor) decoder inherently constitutes a RDS separator as evidence by the fact that of the presence of RDS and the fact particular data may be displayed by a display of the radio device which typical RDS information, and the demodulated signal is monitored in the decoder for the occurrence of identifiers of the message data which is stored for later retrieval (col. 2, lines 49-58, col. 3, lines 1-10), which reads on the demodulator inputting to

the RDS separator. However, Groeger and Sass fail to specifically disclose the decoder (RDS separator) connected to the radio to receive signals from an IF amplifier.

Regarding the IF amplifier, in a similar field of endeavor, Noda discloses a receiver comprising an IF amplifier (col. 6, lines 54-56).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger and Arrowsmith by providing an IF amplifier for the purpose of inputting intermediate signals to the decoder coupled with the demodulated signal.

5. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Groeger combination in view of Noda.

Regarding **claim 7**, Groeger combination disclose everything claimed as applied above (see claim 6). Groeger combination (Groeger) further discloses the demodulator inputting to the recording unit and playback unit of the radio, reads the audio integrated circuit receiving an input from the demodulator, and demodulator being coupled to input to the decoder. However, Groeger combination fail to specifically disclose the decoder (RDS separator) connected to receive signals from an IF amplifier.

Regarding the IF amplifier, in a similar field of endeavor, Noda discloses a receiver comprising an IF amplifier (col. 6, lines 54-56).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger combination by providing an IF amplifier for the purpose of inputting intermediate signals to the decoder (RDS separator) coupled with the demodulated signal.

6. Claims 9-11, 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claim 14 is allowed.

Response To Arguments

8. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

The applicant essentially argues that the prior art of record fails to disclose automatic initiation of periodic replacement of prerecorded message. In respect to the applicant's arguments, the applicant claim language fails to restrict the function or meaning of the term "automatically", and thus the claim language has been interpreted and examined in respect to the broadest interpretation of the claim language. The rejection of Greoger et al. and Arrowsmith et al. has been removed. However, Greoger et al. and Sass art rejection has been provided wherein Sass discloses a replacing regular radio broadcast with selective commercials as desired in view of case law regarding making a manual process automatic. The applicant also argues that Greoger and Arrowsmith fail to teach connecting the storage and playback circuitry between a demodulator and an audio amplifier of a radio for playing the prerecorded message. The components of Greoger are disclosed as being integrally connected and thus provides support of connecting the storage and playback circuitry between a demodulator and an audio amplifier of a radio in respect the broadest interpretation of the claim language, because the applicant's claim language fails to restrict or specifically recite what is meant by the term "connecting". With the

components being capable of function as one integrated device, then the clam limitations are addressed. The prior art rejection of Arrowsmith and Sass for claim 14 has been removed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Laura A Grier
Primary Examiner
Art Unit 2644

November 28, 2005